

MERRITT J. VINCENT, et al.,)	
)	
Plaintiff(s),)	Case No. 2:14-cv-01073-APG-NJK
)	
vs.)	
)	ORDER DENYING MOTION TO
)	COMPEL AND SEALING
FOUR QUEENS, LLC,)	PLAINTIFFS' OPPOSITION
)	
Defendant(s).)	(Docket Nos. 13, 15)
)	

I. Defendant's Motion to Compel (Docket No. 13)

The case law in this District is clear that “personal consultation” means the movant must “personally engage in two-way communication with the nonresponding party to meaningfully discuss

1 each contested discovery dispute in a genuine effort to avoid judicial intervention.” *ShuffleMaster,*
 2 *Inc. v. Progressive Games, Inc.*, 170 F.R.D. 166, 171-72 (D. Nev. 1996). This obligation
 3 “promote[s] a frank exchange between counsel to resolve issues by agreement or to at least narrow
 4 and focus matters in controversy before judicial resolution is sought.” *Nevada Power v. Monsanto*,
 5 151 F.R.D. 118, 120 (D.Nev.1993). To meet this obligation, parties must “treat the informal
 6 negotiation process as a substitute for, and not simply a formal prerequisite to, judicial review of
 7 discovery disputes.” *Id.* This is done when the parties “present to each other the merits of their
 8 respective positions with the same candor, *specificity*, and support during the informal negotiations
 9 as during the briefing of discovery motions.” *Id.* (emphasis added). “Only after all the cards have
 10 been laid on the table, and a party has meaningfully assessed the relative strengths and weaknesses
 11 of its position in light of all available information, can there be a ‘sincere effort’ to resolve the
 12 matter.” *Id.* To ensure that parties comply with these requirements, movants must file certifications
 13 that “accurately and specifically convey to the court who, where, how, and when the respective
 14 parties attempted to personally resolve the discovery dispute.” *ShuffleMaster*, 170 F.R.D. at 170.

15 The Court has reviewed the pending certification of counsel. Docket No. 13, Heimerle Decl.
 16 at ¶¶ 16-19. The parties had a telephonic conference on January 9, 2015. *Id.*, at ¶ 17. However,
 17 this telephonic conference appears to have dealt solely with a draft “Consent Motion for an
 18 Extension of Time to Complete Discovery,” and not with the specific discovery disputes at issue in
 19 the pending motion.¹ *Id.*, at ¶¶ 15-17. The movant, therefore, has not certified that the parties
 20 engaged in an adequate meet and confer for the purpose of this motion.² Accordingly, the motion
 21 to compel is hereby **DENIED** without prejudice.

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25 ¹ Defendant is moving for an order compelling Plaintiffs to produce: (1) adequate responses
 26 to written discovery requests, (2) a complete disclosure of witnesses, (3) documents and a
 27 computation of damages, and (4) all documents used by Plaintiffs to calculate any claim for
 damages. Defendant is also seeking to compel Plaintiffs to appear in Las Vegas for their depositions.

28 ² Plaintiffs’ opposition confirms the lack of a proper meet and confer. *See* Docket No. 15,
 at 13.

1 **II. Plaintiffs' Opposition (Docket No. 15)**

2 Plaintiffs' opposition to Defendant's motion to compel does not comply with Federal Rule
3 of Civil Procedure 5.2(a) as it contains improper confidential information.³ Rule 5.2 provides that
4 a filing should not contain, *inter alia*, an individual's social-security number or birth date.
5 Fed.R.Civ.P. 5.2(a).

6 **III. Conclusion**

7 Based upon the foregoing,

8 **IT IS SO ORDERED:**

- 9 1. The Clerk of the Court shall seal the document at Docket No. 15.
- 10 2. Plaintiffs shall file a redacted version of their opposition to Defendant's motion to
11 compel in compliance with Federal Rule of Civil Procedure 5.2, no later than January
12 23, 2015.
- 13 3. Defendant's motion to compel (Docket No. 13) is hereby **DENIED** without
14 prejudice.

15 DATED: January 20, 2015

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18 _____
19 NANCY J. KOPPE
20 United States Magistrate Judge
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25 ³ Unless the court orders otherwise, in an electronic or paper filing with the court that
26 contains an individual's social-security number, taxpayer-identification number, or birth date, the
27 name of an individual known to be a minor, or a financial-account number, a party or nonparty
28 making the filing may include only:

- (1) the last four digits of the social-security number and taxpayer-identification number;
(2) the year of the individual's birth;
(3) the minor's initials; and
(4) the last four digits of the financial-account number.